

CARMEL CITY CODE
CHAPTER 10: ZONING & SUBDIVISIONS
ARTICLE 1: ZONING CODE
CARMEL/CLAY ZONING ORDINANCE
CHAPTER 23B: U.S. HIGHWAY 31 CORRIDOR OVERLAY ZONE

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23B.00 U.S. Highway 31 Corridor Overlay Zone.¹

23B.00.01 Purpose, Intent and Authority.

The purpose of the U.S. Highway 31 Overlay Zone is to promote and protect the public health, safety, comfort, convenience and general welfare by providing for consistent and coordinated treatment of the properties bordering U.S. Highway 31 (also known as the Carmel Meridian Corridor) in Clay Township, Hamilton County, Indiana. The Commission and Council, in establishing this zone, are relying on IC 36-7-4-600 *et seq.* and IC 36-7-4-1400 *et seq.* This zoning district is, likewise, intended to serve as a tool for implementing the development policies and guidelines set for the Corridor in the Comprehensive Plan. U.S. Highway 31 is a limited access highway and an important business corridor to the City of Carmel and Clay Township. The U.S. Highway 31 Corridor is a premier office location and employment center whose viability, quality, and character are important to the community as a whole, adjacent residents, employees, business owners, and taxing districts. Therefore, it is the further purpose of the U.S. Highway 31 Overlay Zone to preserve the aesthetic qualities of those bordering properties through:

- (1) the promotion of coordinated development in the U.S. Highway 31 Overlay Zone;

¹ Section 23B.00 amended per Ordinance No. Z-453-04, §cv-cw.

- (2) the establishment of high standards for buildings, landscaping, and other improvements constructed on the properties within the U.S. Highway 31 Overlay Zone which permit innovative site designs and at the same time encourage efficient land usage; and
- (3) the establishment of development requirements which will encourage substantial capital investments for the development of those properties and promote the quality, scale, and character of development consistent with the Corridor's existing and planned uses.

23B.00.02 Plan Commission Approval.

- A. Development Plan. The Commission shall review the Development Plan (DP) of any proposed use of any Lot or parcel of ground within the U.S. Highway 31 Corridor Overlay Zone prior to the issuance of an Improvement Location Permit by the Department. See *Section 24.02: Development Plan.*
- B. Architectural Design, Exterior Lighting, Landscaping and Signage. To insure the compatibility of the proposed use with adjoining areas, the Commission shall review the Architectural Design, Exterior Lighting, Landscaping and Signage (ADLS) application of any proposed use of any Lot or parcel of ground within the U.S. Highway 31 Corridor Overlay Zone prior to the issuance of an Improvement Location Permit by the Department. See *Section 24.03: Architectural Design, Exterior Lighting, Landscaping and Signage.*

23B.00.99 Application Procedure.

- A. Development Plan. See *Section 24.99(A): Development Plan.*
- B. Architectural Design, Exterior Lighting, Landscaping and Signage (ADLS). See *Section 24.99(B): Architectural Design, Exterior Lighting, Landscaping and Signage (ADLS).*

23B.01 District Boundaries:

The boundaries of the U.S. Highway 31 Overlay Zone are hereby established as follows:

- A. Beginning at north right-of-way line of 96th Street and extending to the north right-of-way line of Interstate Highway 465, the boundary shall follow the centerlines of Spring Mill Road on the west and College Avenue on the east.
- B. Beginning at north right-of-way line of Interstate Highway 465 and extending to the south right-of-way line of 131st Street, the boundary shall follow the centerlines of the proposed or constructed parallel roads, namely Pennsylvania Street on the east, and Illinois Street (and Meridian Corners Boulevard) on the west.
- C. From the south right-of-way line of 131st Street to the south right-of-way line of 146th Street, or the southern boundary of any TIF District that is contiguous to 146th Street, the boundary shall, (unless otherwise shown on the official Zoning Map) include all land that is within six hundred (600) feet of the right-of-way for U.S. Highway 31.

23B.02 Commission Review²

- A. **Development Plan.** The Commission must approve, approve with conditions, or disapprove the Development Plan (DP) for any tract of land in the U.S. Highway 31 Overlay Zone.
1. The Commission shall hold a public hearing before it decides whether to approve or disapprove a DP. However, no DP is required for additions to existing structures which:
 - a. Are attached to the existing structure;
 - b. Continue the architectural design of the existing structure, including exterior color and materials; doors and windows, other detailing;
 - c. Meet with requirements of the underlying primary zoning district;
 - d. Do not exceed twenty percent (20%) of the original gross floor area of the existing structure, applicable from the date of this ordinance, and,
 - e. Have received a prior ADLS approval from the Commission.
 2. The Commission shall review a DP application to determine if the DP satisfies the development requirements specified in *Sections 23B.03 through 23B.08*. The Commission's review shall include, but not be limited to, the following items:
 - a. Existing site features, including topography and wooded areas;
 - b. Zoning on site;
 - c. Surrounding zoning and existing land use;
 - d. Streets, curbs and gutters, sidewalks, and bicycle paths;
 - e. Access to public streets;
 - f. Driveway and curb cut locations in relation to other sites;
 - g. General vehicular and pedestrian traffic;
 - h. Vehicle and bicycle parking facilities and internal site circulation;
 - i. Special and general easements for public or private use;
 - j. On-site and off-site surface and subsurface storm water drainage including drainage calculations;
 - k. On-site and off-site utilities;
 - l. The means and impact of sanitary sewage disposal and water supply techniques;
 - m. Dedication of streets and rights-of-way, or reservation of land to be sold to governmental authorities for future development of streets and rights-of-way;
 - n. Proposed setbacks, site landscaping and screening, and compatibility with existing platted residential uses;
 - o. Project signage;
 - p. Protective restrictions and/or covenants;
 - q. Compatibility of proposed project with existing development within the U.S. Highway 31 Corridor; and,

² *Section 23B.02 amended per Ordinance No. Z-453-04, §cx-dh.*

- r. Consistency with the policies for the Overlay Zone which are set forth in the Comprehensive Plan, including the Thoroughfare Plan.
 3. ~~Findings-of-Fact.~~ The Commission shall make written findings concerning each decision to approve or disapprove a DP. The President of the Commission shall be responsible for signing the written findings of the Commission.
- B. **Architectural Design, Exterior Lighting, Landscaping and Signage.** Except as provided in *Paragraph (A)(1)* above, for all projects in the U.S. Highway 31 Overlay Zone, the Commission shall review and approve the Architectural Design, Exterior Lighting, Landscaping and Signage (ADLS), access to the property, site layout, parking and site circulation, pursuant to *Sections 23B.09 through 23B.15*.
 1. **ADLS** approval shall be necessary prior to:
 - a. The establishment of any use of land;
 - b. The issuance of any Improvement Location Permit;
 - c. The erection, reconstruction or structural alteration of any building(s) in the U.S. Highway 31 Overlay Zone; or
 - d. Any changes in any site improvements.
 2. An amendment to an ADLS may be reviewed and approved by a committee of the Commission according to the Rules of Procedure. However, any interested party may appeal the decision of the committee directly to the Commission.
- C. **Zoning Waiver.** The Commission may, after a public hearing, grant a Plan Commission Waiver of certain Development Requirements of this Chapter, so noted within. Any approval to permit such a waiver shall be subject to the following criteria:
 - (1) The proposal shall be in harmony with the purposes and the land-use standards contained in this Chapter.
 - (2) The proposal shall enhance the overall Development Plan, the adjoining streetscapes and neighborhoods, and the overall U.S. 31 Corridor.
 - (3) The proposal shall not produce a Site Plan or street/circulation system that would be impractical or detract from the appearance of the Development Plan and the U.S. 31 Corridor, and shall not adversely affect emergency vehicle access or deprive adjoining properties of adequate light and air.
 - (4) The proposal exhibits extraordinary site design characteristics, including, but not limited to: Increased landscape treatment, tree preservation, public art, provisions for bicycles and/or mass transit, reduced surface parking coupled with provisions for above or below ground parking facilities.

In granting a waiver, the Commission may impose such conditions that will, in its judgment, secure the purposes of this Chapter. This Paragraph does not affect the right of an applicant under Indiana law to petition the Board for a variance from development standards, as provided in IC 36-7-4-918.5 and this Zoning Ordinance.

23B.03 Permitted Uses.³

All uses which are permitted in the underlying primary zoning district(s), except the uses expressly excluded by *Appendix A: Schedule of Uses*, are permitted in the U.S. 31 Overlay Zone.

23B.04 Special Uses.⁴

There shall be no Special Uses permitted in the U.S. Highway 31 Overlay Zone.

23B.05⁵

23B.05.01 Excluded Uses: See *Appendix A: Schedule of Uses*.

23B.05.02 Retail Uses:

Retail Uses may be included in one or more buildings within a DP, subject to the following:

A. Retail Uses may comprise up to:

- (1) Fifteen percent (15%) of the Gross Floor Area (GFA) of any building; or,
- (2) Up to thirty percent (30%) of the GFA of one building may be retail uses, provided that:
 - (a) Total square footage of retail uses designated in the development plan does not exceed fifteen percent (15%) of the GFA of all buildings combined; or,
 - (b) Retail uses over fifteen percent (15%) of the GFA of any one building be located on the ground floor or below grade.

B. The Commission may grant a waiver to allow retail use to be located on floors other than ground or below-grade, pursuant to the criteria found in *Section 23B.02(G)*.

23B.06 Accessory Buildings and Uses:

All Accessory Buildings and uses which are permitted in the underlying primary zoning district(s) shall be permitted, except that any attached or detached Accessory Building in any DP/ADLS shall have on all sides the same building proportions, architectural features, construction materials, and in general be architecturally compatible with the Principal Building(s) with which it is associated.

23B.07 Minimum Tract Size:

- A. Except as provided in *Paragraph C*, below, the minimum area covered by a DP within the U.S. Highway 31 Overlay Zone must be 217,800 square feet (5 acres).
- B. If a Parent Tract (Tract) is located both inside and outside of the U.S. Highway 31 Overlay Zone, a DP shall be submitted to the Commission for the entire tract. Wherever there exists a conflict

³ Section 23B.03 amended per Ordinance No. Z-382-02, §b; Z-415-03, §bu.

⁴ Section 23B.04 amended per Ordinance No. Z-415-03, §bv.

⁵ Section 23B.05 amended per Ordinance No. Z-415-03, §bw-bx.

between the requirements of the underlying zoning and those of the U.S. 31 Overlay Zone, the requirements for the U.S. 31 Overlay Zone shall prevail.

- C. If a parcel of land or subdivision lot was recorded prior to April 21, 1980 (the “Effective Date”), and said parcel or lot does not contain the minimum area required by this Paragraph, said parcel or lot (“Undersized Lot”) may be used for any use permitted in the U.S. 31 Overlay Zone provided that:
- (1) At the time of recordation of the Undersized Lot or on the Effective Date, the Undersized Lot met the requirements for minimum lot size then in effect for a lot in the underlying primary zoning district(s);
 - (2) The owner of the Undersized Lot must include any adjoining vacant land (not separated by a street or public way) owned or owned by an affiliate on or before the Effective Date or at the time of application which, if combined with the Undersized Lot would create a parcel which conforms, or more closely conforms, to the requirements of this Paragraph; and,
 - (3) All other requirements applicable to the U.S. 31 Overlay Zone can be met.
- D. *Section 23B.07* does not preclude the sale or other transfer of any parcel of land within a Parent Tract after the approval of a Development Plan (DP) for the entire tract. However, the development of the parcel must still conform to the DP for the Parent Tract as approved or amended by the Commission, and all other applicable requirements contained in the Zoning Ordinance.

23B.08 Height and Yard Requirements⁶

The purpose of this Section is to provide site design requirements that align buildings along the edges of a parcel, towards the public right-of-way of the U.S. 31 Corridor, and, where applicable, the I-465, Pennsylvania Street, Pennsylvania Parkway, Meridian Corners Boulevard, and Illinois Street Corridors. It is the intent of these regulations to orient new buildings with their longest axis parallel to the adjoining highway or street to create a sense of enclosure along the streets, with parking located to the rear, and, if necessary, to the side of a building.

23B.08.01 Build-To Lines:

- A. Except as allowed in *Paragraph B* below, all Principal Buildings shall be located on the U.S. 31 Corridor Build-to Line, defined in *Paragraph C* below.
- B. For Development Plans on Through Lots with two or more Principal Buildings (buildings), up to one-half (½) of the buildings may be placed on the Pennsylvania Street, Pennsylvania Parkway, Meridian Corners Boulevard, and Illinois Corridor Build-to-line instead of the U.S. 31 Build-to Line.
- C. Dimensional requirements for Build-to-lines shall be measured from the highway or street Right-of-way line:
 - (1) U.S. 31 Corridor and I-465: Ninety (90) feet
 - (2) Pennsylvania Street, Pennsylvania Parkway, Meridian Corners Boulevard, and Illinois Corridors: Twenty (20) feet.

⁶ *Section 23B.08* amended per *Ordinance No. Z-382-02, §c-f; Z-453-04, §di-dj.*

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- D. Principal Buildings that are also located adjacent to any arterial or parkway (e.g. 96th Street or 116th Street) shall be sited consistent with the Building Setback Line of the underlying zoning.
- 23B.08.02 Minimum Side and Rear Yards:
- A. Adjacent to any residential use or zone: Forty-five (45) feet.
- B. Adjacent to business use or business zone: Fifteen (15) feet.
- 23B.08.03 Building Height: As specified in the underlying primary zoning district(s), except as follows:
- A. Minimum Building Heights:
1. All uses along U.S. 31 and I-465: Thirty-eight (38) feet and three (3) occupiable floors.
 2. All uses along Pennsylvania Street, Pennsylvania Parkway, Meridian Corners Boulevard, and Illinois Street Corridors, or adjoining arterial/parkway: Twenty-six (26) feet and two (2) occupiable floors.
- B. Maximum Building Heights: As specified in the underlying primary zoning district(s), except as follows:
- (1) B-5 District - Between I-465 and 131st Street: Eighty (80) feet, except that the maximum height may not exceed forty percent (40%) of the distance from any residential use or zone.
 - (2) B-6 District - All uses, between I-465 and 131st Street: One hundred fifty (150) feet, except that the maximum height may not exceed forty percent (40%) of the distance from any residential use or zone.
 - (3) Maximum height for all buildings along Pennsylvania Street, Pennsylvania Parkway, Meridian Corners Boulevard, and Illinois Street frontages: Fifty-five (55) feet.
- 23B.08.04 Minimum Parcel Width:
- For all uses, the parcel width shall equal or exceed that amount which is one-half (½) the depth of the parcel. However, if a parcel of land or subdivision lot was recorded prior to April 21, 1980 (the “Effective Date”), and said parcel or lot does not contain the minimum width required by this Paragraph, said parcel or lot (“Undersized Lot”) may be used for any use permitted in the U.S. 31 Overlay Zone provided that:
- A. At the time of recordation of the Undersized Lot or on the Effective Date, the Undersized Lot met the requirements for minimum lot width then in effect for a lot in the underlying primary zoning district(s);
- B. The owner of the Undersized Lot must include, up to the minimum parcel width, any adjoining vacant land (not separated by a street or public way) owned, or owned by an affiliate, on or before the Effective Date or at the time of application which, if combined with the Undersized Lot, would create a parcel which conforms, or more closely conforms, to the minimum parcel width requirements of this Paragraph, and
- C. All other Development Requirements applicable to the U.S. 31 Overlay Zone can be met.
- 23B.08.05 Minimum Gross Floor Area:
- A. All buildings shall have a minimum of fifteen thousand (15,000) square feet of gross floor area, excluding the floor area of any basement or any accessory building(s).
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Accessory Buildings permitted need not meet this minimum floor area requirement. The intent of this minimum gross floor area requirement is to preclude small, freestanding buildings and uses not in character with the Corridor.

B. Distribution of Gross Floor Area.

1. All uses along U.S. 31 and I-465:
 - a. Maximum First floor GFA: Forty percent (40%);
 - b. Maximum Second floor GFA: Thirty-five percent (35%).
2. All uses along Pennsylvania Street, Pennsylvania Parkway, Meridian Corners Boulevard, and Illinois Street Corridors, or adjoining arterial/parkway:
 - a. Maximum First floor GFA: Sixty percent (60%);

23B.08.06 Maximum Parcel Coverage and Density:

- A. Maximum Parcel Coverage shall be sixty-five percent (65%) of any parcel covered by a DP.
- B. Maximum Floor Area Ratio (F.A.R.) shall be 0.70, with the F.A.R. being calculated by dividing the total gross floor area of a building or buildings on any parcel by the area of such parcel.

23B.08.07 Waivers:

The applicant may request a Plan Commission Waiver to the dimensional and quantitative standards of this *Section 23B.08*, by not greater than thirty-five percent (35%), consistent with requirements set forth in *Section 23B.02(G)*.

23B.09 Architectural Design Requirements.

In reviewing the architectural design of building(s) proposed to be built in the U.S. Highway 31 Overlay Zone, factors to be considered by the Commission shall include but not be limited to the following:

- A. Context: All buildings shall be designed with respect to the general character of the U.S. 31 Corridor and, particularly, with due consideration to buildings located on lots that abut the project site.
- B. Scale and proportion: All building façades, including doors, windows, column spacing, and signage shall be designed using the Golden Section, represented by the ratio 1:1.6 or 1.6:1.
- C. A minimum of three materials shall be used for building exteriors, from the following list: stone, brick, architectural pre-cast (panels or detailing), architectural metal panels, glass, ornamental metal. Large expanses of glass are allowed, up to seventy percent (70%) of the façade area. The building may not be constructed entirely of a metal and glass curtain wall. Concrete block is not allowed as an exterior finish material.
- D. All buildings shall be designed with a minimum of eight external corners, in order to eliminate box buildings.
- E. Building penthouses must be incorporated into the building façade design, including exterior materials specifications.
- F. Sloped roofs shall not exceed one hundred (100) feet without a change in roof plane, or gable or dormer. Sloped roofs shall be either standing seam metal or dimensional shingles.

- G. **Exhibits.** The following architectural exhibits shall be provided to the Commission in addition to normal submission requirement of any DP or ADLS application:
- (1) A Site Plan showing the proposed building in the context of adjoining buildings, including buildings across U.S. 31.
 - (2) Perspective computer-enhanced color renderings showing the proposed building, signage, parking areas (shown loaded) and any displays within the context of the actual existing site conditions, including how it will look from any adjoining residential areas, as well from as three locations, whose distance is no less than three hundred (300) linear feet away nor more than one thousand (1000) linear feet away (from the property line), along U.S. 31:
 - (a) U.S. 31 Southbound lane
 - (b) Immediately across the highway, from approximately first floor level
 - (c) U.S. 31 Northbound lane
 - (3) Golden Section analysis, providing building elevations which define how the proposed building has been designed utilizing the proper ratio.
- H. **Waivers:**
- The applicant may request a Plan Commission Waiver to the dimensional and quantitative standards of this *Section 23B.09* by not greater than thirty-five percent (35%), consistent with requirements set forth in *Section 23B.02(G)*.

23B.10 Landscaping Requirements.⁷

23B.10.01 Landscape Plan:

A Landscape Plan shall be submitted to the Plan Commission for its approval at the same time other plans (i.e. architectural design, lighting, parking and signage) are submitted. This plan shall:

- A. Be drawn to scale, including dimensions and distances;
- B. Delineate all existing and proposed buildings, private parking areas, walks, ramps for handicapped, terraces, drive-ways, signs, lighting standards, steps and other similar structures;
- C. Delineate the location, size and description of all plant material and the irrigation system for all planting areas. Landscape treatment for plazas, roads, paths, service and private parking areas shall be designed as an integral /coordinated part of the Landscape Plan for the entire lot.

23B.10.02 Landscape Area Requirements:

A. Greenbelt:

- (1) The Greenbelt along U.S. Highway 31 shall be a minimum of thirty (30) feet in width and landscaped per the requirements of *Section 23B.10.03(B)*.
- (2) The Greenbelt shall be unoccupied except for plant material, steps, walks, terraces, bike paths, lighting standards, signs, and other similar structures (excluding a private parking area). Mounding and other innovative treatments are to be encouraged in this area.

⁷ *Section 23B.10* amended per *Ordinance No. Z-365-01*.

- (3) A base-planting unit for each one hundred (100) linear foot increment of the Greenbelt has been designated, as follows:
 - (a) Five (5) shade trees;
 - (b) Three (3) ornamental trees;
 - (c) Fifteen (15) shrubs or, three (3) evergreen trees;

B. Planting Strip:

- (1) A planting strip, minimum width shall be ten (10) feet, shall be provided adjacent to any Collector or Arterial Street, or Parkway right-of-way within the U.S. 31 Overlay Zone.
- (2) Adjacent to an Entry Drive: Minimum width ten (10) feet.
- (3) Adjacent to any parking area: Minimum width as follows:
 - (a) five feet (5') wide when adjacent to business zoned property.
 - (b) fifteen feet (15') wide when adjacent to residential use or zoned property.
- (4) The planting strip shall be unoccupied except for plant material, steps, terraces, driveway and pathway crossings, lighting standards, signs, benches, and other similar structures.
- (5) The base planting unit for planting strips shall be as follows:
 - (a) Adjacent to Parallel Collector/Arterial Roadways:
For each one hundred (100) linear foot increment:
 - (i) Three (3) shade trees
 - (ii) Two (2) ornamental trees
 - (iii) Ten (10) shrubs
 - (b) Adjacent to entry drives: Same planting unit standards as for Parallel Collector/Arterial Roadways, above.
 - (c) Adjacent to parking areas: per *Section 26.04: Perimeter Buffering*.

C. Planting Adjacent to Buildings:

- (1) A planting area equal to an area measuring twenty-five (25) feet in depth by the width of the front of the building plus twenty (20) feet (to extend ten (10) feet out on both sides) shall be installed along building façades that face U.S. 31.
- (2) A planting area equal to an area ten (10) feet in depth by the remaining sides of the building shall be installed on all other sides of the building(s).
- (3) Sidewalks up to eight (8) feet in width may be permitted in these areas, but shall not occupy the entire planting area on any side of the building(s).
- (4) If an approach driveway or sidewalk cuts into a planting area, the area displaced by the driveway or sidewalk shall be added to the building perimeter planting.
- (5) These adjacent planting areas need not be rectangular in shape as long as the required amount of space is landscaped; innovative and original designs are encouraged.

D. Planting Within Parking Lots:

A minimum of one (1) shade tree and five (5) shrubs shall be planted within each parking lot for every nine (9) spaces provided, or not less than eighteen (18) trees per acre of parking.-See *Section 23B.10.03(B)* for minimum planting area requirements.

E. Side/Rear Yard Landscaping: Planting unit shall occur per *Paragraph F* below.**F. Greenbelt Buffers** shall be established within required side and rear yards pursuant to *Section 26.04: Perimeter Buffering*.**G. Total Landscaping Required:**

Inclusive of the Greenbelt, the planting adjacent to the building(s), the Greenbelt Buffers, and the planting within parking lots, a minimum of fifteen percent (15%) of the project area shall be landscaped.

23B.10.03 Landscaping Installation and Maintenance.**A. Materials:** All plants proposed to be used in accordance with any landscaping plan shall meet the following specifications:

- (1) Shade trees: two and one-half inch (2½") caliper, a minimum height of eight (8) feet, and a branching height of not less than one-third (1/3) nor more than one-half (½) of tree height.
- (2) Ornamental trees: one and one-half inch (1½") caliper a minimum height of six (6) feet, and a branching height of not less than one-third (1/3) nor more than one-half (½) of tree height.
- (3) Evergreen trees: A minimum height of eight (8) feet.
- (4) Deciduous shrubs: A minimum height of twenty-four (24) inches, and no less than six (6) main branches upon planting.
- (5) Evergreen shrubs: A minimum height and spread of twenty-four (24) inches.

B. The dimensions, specifications and design of any planting area or planting median shall be as follows:

- | | |
|-----------------------|---------------------|
| (1) Shade Trees: | nine (9) feet wide |
| (2) Ornamental Trees: | seven (7) feet wide |
| (3) Shrubs (only): | five (5) feet wide |

C. Landscaping materials selected shall be appropriate to local growing and climate conditions.**D. Installation:** All required landscaping shall be installed prior to the issuance of a final Certificate of Occupancy by the Department. If it is not possible to install the required landscaping because of weather conditions, the property owner shall post a bond for an amount equal to the total cost of the required landscaping not yet installed, prior to the issuance of the Final Certificate of Occupancy.**E. Maintenance:** It shall be the responsibility of the owners and their agents to insure maintenance of project landscaping approved in accordance with the Overlay Zone requirements. This is to include, but is not limited to, irrigation and mulching of planting areas, replacing dead, diseased, or overgrown plantings with identical varieties or a suitable substitute, and keeping the area free of refuse, debris, rank vegetation and weeds.

- F. Changes After Approval: No landscaping which has been approved by the Commission may later be materially altered, eliminated or sacrificed, without first obtaining further Commission approval. However, minor alterations in landscaping may be approved by the Director in order to conform to specific site conditions.
- G. Inspection: The Director shall have the authority to visit any tract within the U.S. Highway 31 Overlay Zone to inspect the landscaping and check it against the approved plan on file.

23B.10.04 Protection of Existing Trees:

Sites with existing trees or stands of trees should make reasonable efforts to protect and incorporate them into the overall site design. The Landscape Plan must preserve not less than seventy percent (70%) of all trees that are:

- A. nine-inch (9") DBH or larger, and
- B. located within the Greenbelt, Planting Strips and perimeter buffering.

23B.10.05 Waivers:

The Plan Commission may grant a waiver to the dimensional and quantitative standards of this *Section 23B.10*, by not greater than thirty-five percent (35%), consistent with requirements set forth in *Section 23B.02(G)*.

23B.11 Public Art.

Public art that is included as part of a Development Plan shall be displayed in a location that is visually accessible to the public and visible from either U.S. Highway 31, Pennsylvania Street, Range Line Road, or Illinois Street/Meridian Corners Boulevard.

23B.12 Parking Requirements.

- A. Except as provided in *Paragraph B*, there shall be no (0) parking between the U.S. 31 right-of-way and the front build-to line of the building.
 - (1) The required number of parking spaces is established in *Chapter 27: Additional Parking & Loading Regulations*, depending upon the zoning and intended land use.
 - (2) There shall be an appropriate number of parking spaces reserved for use by handicapped individuals, per State and Federal requirements.
 - (3) Direct, articulated pedestrian access shall be provided from the street to the building's primary entrance.
 - (4) A bicycle parking area should be provided for each building.
 - (5) Above grade, structured parking facilities shall have on all sides architectural features that are compatible with the principal building(s) with which they are associated.
- B. Waivers:

The applicant may request a Plan Commission Waiver to the dimensional and quantitative standards of this *Section 23B.12*, by not greater than thirty-five percent (35%), consistent with requirements set forth in *Section 23B.02(G)*.

23B.13 Lighting Requirements

- A. A Site Lighting Plan shall be submitted along with any DP or ADLS plan. The Site Lighting Plan shall include the type, standards, layout, spread & intensity of all site lighting, including:
 - (1) parking lot and service/storage area lighting;
 - (2) architectural display lighting;
 - (3) security lighting;
 - (4) lighting of pedestrian and bicycle ways;
 - (5) architectural and landscape lighting.
- B. All site lighting shall be coordinated throughout the project and be of uniform design, color and materials.
- C. The maximum height of light standards shall not exceed the building height proposed, or twenty-five (25) feet, whichever is less. However, when light standards abut or fall within ninety (90) feet of a residential use, they shall not exceed fifteen (15) feet.
- D. All exterior architectural, display, decorative and sign lighting shall be generated from concealed, low level light fixtures.
- E. The average illumination for site lighting shall be a maximum of three (3) footcandles.
- F. All site lighting shall be designed to not exceed 0.3 footcandle at the property line in business or manufacturing districts, and 0.1 footcandle at the property line of adjoining residential uses.
- G. Waivers:
 The applicant may request a Plan Commission Waiver to the dimensional and quantitative standards of this *Section 23B.13*, by not greater than thirty-five percent (35%), consistent with requirements set forth in *Section 23B.02(G)*.

23B.14 Bicycle and Pedestrian Access

The DP shall include specific provisions for incorporating pedestrian and bicycle access, circulation and amenities into the development. Such bicycle and pedestrian access considerations shall include linking pedestrian and bicycle facilities to adjacent development, the overall U.S. 31 Corridor, and, the Carmel community's overall system of bicycle and pedestrian trails and routes.

23B.15 Access to Individual Tracts

As U.S. Highway 31 is a limited access highway, and as access to individual tracts along this highway is either not in existence or not clearly defined in many cases, access roads will need to be built. In order to preserve the aesthetic benefits provided by the greenbelt, access roads shall be provided at the rear of all tracts, whenever possible. Access roads to contiguous tracts shall be coordinated so as to form one main access road serving adjoining developments. These roads should be designed so as to funnel traffic onto major arterial roads rather than into residential areas and roads that may adjoin or be near this Overlay Zone. Bicycle and pedestrian access shall likewise be coordinated with vehicular access, greenbelt design and parking.

23B.16 Other Requirements⁸**23B.16.01 Outside Storage of Refuse:**

Unenclosed storage of refuse (whether or not in containers) or display of merchandise shall not be permitted on any project. All refuse shall be contained completely within the Principal Building or Accessory Building. Any Accessory Building for refuse storage shall be:

- A. Designed to include a roof structure; and,
- B. Architecturally compatible with the Principal Building.

23B.16.02 Loading and Unloading Areas:

Loading and Unloading Berths or Bays shall be designed as specified in the underlying primary zoning district(s), except that any Loading and Unloading Berth or Bay shall not be oriented to U.S. Highway 31. Loading and Unloading Berths or Bays oriented toward any other public right-of-way, shall be landscaped/screened using masonry wall(s), plant material, or a combination thereof, subject to Commission approval.

23B.16.03 Additions to Existing Residential:

Uses and Detached Buildings accessory to single-family dwelling units are permitted provided that the use and/or structure meets the requirements of the underlying primary zoning district. Additionally, any detached structure:

- A. Must be of compatible architectural design with the Principal Building;
- B. Must be set back a minimum of thirty (30) feet from the right-of-way line nearest to and running most parallel with U.S. Highway 31; and be accompanied by the minimum applicable perimeter buffer per *Section 26.04: Perimeter Buffering*.

C. Waivers:

The applicant may request a Plan Commission Waiver to the dimensional and quantitative standards of this *Section 23B.16.03*, by not greater than thirty-five percent (35%), consistent with requirements set forth in *Section 23B.02(G)*.

23B.17 Reservation of Land for Pending State Highway Improvements⁹

- A. In addition to the development requirements specified in *Sections 23B.03* through *23B.08*, a DP must reserve for acquisition by the State of Indiana all land that the State expects to need for pending improvements to U.S. Highway 31, as shown on plans developed for the Indiana Department of Transportation by the consulting firm Bernardin, Lochmueller and Associates for the Major Investment Study (1997), or, as shown on plans from the Parsons Transportation Group prepared for the Environmental Impact Study. An applicant must notify in writing the Commissioner of the Indiana Department of Transportation (INDOT) of any proposed DP that includes land within the projected right-of-way for those pending improvements.
- B. Whenever an applicant believes that the reservation of such land as required by *Paragraph A* would result in the loss of all reasonable and beneficial use of or return from the applicant's property, then the applicant may request an Economic Hardship

⁸ *Section 23B.16* amended per *Ordinance No. Z-365-01*.

⁹ *Section 23B.17* amended per *Ordinance No. Z-453-04, §dk-dn*.

Exception from the terms of *Paragraph A*, pursuant to the Plan Commission's Rules of Procedure.

- C. Upon receipt of a request for an Economic Hardship Exception, the Commission shall hold a public hearing on such request. The hearing may not be held until at least ninety (90) days after the applicant has notified the Commissioner of INDOT of the proposed DP as described above in *Paragraph A*. In determining whether to grant an Economic Hardship Exception, the Commission may consider the following criteria:
- (1) the applicant's knowledge of the State's plans at the time of acquisition;
 - (2) the current level of economic return on the property, including the date of purchase, the purchase price, income from the property, any remaining mortgage debt, real estate taxes, and recent appraisals of the property;
 - (3) any recent offers for sale or purchase, including offers to purchase which the State itself may have made;
 - (4) the feasibility of profitable alternative uses for the property; and,
 - (5) whether the State can reasonably be expected to provide just compensation to the applicant for any taking of the applicant's property within one (1) year from the date of the Commission's decision.
- D. An applicant for an Economic Hardship Exception must prove, by clear and convincing evidence, both:
- (1) that the existing use (if any) of the applicant's property is economically infeasible; and,
 - (2) that, if the terms of *Paragraph A* are applied to the property, the sale, rental, or rehabilitation of the property will not be possible, resulting in the property not being capable of earning any reasonable economic return. The Commission's decision must be in writing and must contain the factual findings that constitute the basis for its decision, consistent with the criteria in *Paragraph C*.

**CHAPTER 23B: U.S. HIGHWAY 31 CORRIDOR OVERLAY ZONE
AMENDMENT LOG**

Ordinance No.	Docket No.	Council Approval	Effective Date	Sections Affected
Z-289			6 December 1993	
Z-323			3 September 1997	
Z-324			15 December 1997	
Z-334			7 June 1999	
Z-340			1 May 2000	
Z-365-01	76-01a OA	November 5, 2001	November 27, 2001	23B.10.2(B)(5); 23B.10.2(F); 23B.16.3(B)
Z-382-02	38-02 OA	July 15, 2002	July 15, 2002	23B.3; 23B.8; 23B.8.1; 23B.8.2; 23B.8.3 Summer 2002 v1
Z-415-03	39-02 OA	November 17, 2003	November 18, 2003	23B.03; 23B.04; 23B.05 Autumn 2003 v1
Z-453-04	150-02 OA	August 16, 2004	August 16, 2004	23B.00; 23B.02; 23B.08; 23B.17 Summer 2004 v1